

Working Together for Better Solutions

In the years since Congress passed the National Historic Preservation Act (NHPA) in 1966, federal agencies have become increasingly adept at meeting the requirements of Section 106 of the NHPA. Section 106 calls for federal agencies to consider the affects of their actions on historic properties and to seek the comments of the Advisory Council on Historic Preservation (Council). Agencies meet these requirements by following the Council's implementing regulations, "Protection of Historic Properties" (36 CFR Part 800). The Council's regulations define a broad approach for how an agency should consider the effects of its actions on historic properties in the public interest. Today, however, the consideration and treatment of historic buildings, structures, objects, and archeological sites by the federal government are often routine. Standardized approaches often help applicants and licensees get through the process and minimize the chance of disagreements with the State Historic Preservation Officer or the Council. With the increasing use of programmatic agreements, in which agencies may develop alternative procedures for compliance with Section 106, many federal agencies are afforded increased opportunities to streamline review and consultation. Although such streamlining is a worthy goal, it must not overshadow the premise of Section 106 consultation, which is thoughtful decision-making in the public interest.

The articles in this issue of *CRM* illustrate the value of informed decisionmaking, collaboration, and effective use of the Section 106 process in making management decisions affecting historic properties. The authors were asked to contribute because all were key participants in projects or programs that stand out as unusual and creative approaches to managing historic properties or complying with Section 106. Each author faced the difficult challenge of balancing the desire to protect historic properties and the interests of the public and/or Indian tribes with agency missions and other public needs.

The articles contained in this issue were initially presented in sessions that we organized for two professional meetings: the first, a symposium at the Society for American Archaeology (SAA) Annual Meeting in Seattle, Washington, March 17, 1998; and the second, a workshop at the annual meeting of the National Council on Public History (NCPH) in Austin, Texas, April 16, 1998. The idea for both sessions arose quite independently, and from slightly different perspectives, but with similar goals in mind: to highlight a sample of the successes in federal historic preservation and planning and to stimulate creativity in the treatment of threatened historic properties. During the development of these sessions, it was discovered that many in the historic preservation field have been contemplating these issues for years, and wondered why there was not more pro-

Section 106 (16 U.S.C. 470f) National Historic Preservation Act of 1966

The head of any federal agency having direct or indirect jurisdiction over a proposed federal or federally assisted undertaking in any state and the head of any department or independent agency having an authority to license any undertaking shall, prior to the approval of the expenditure of any federal funds on the undertaking or prior to the issuance of any license, as the case may be, take into account the effect of the undertaking on any district, site, building, structure or object that is included in or eligible for inclusion for the National Register. The head of any such federal agency shall afford the Advisory Council on Historic Preservation, established under Title II of this act, a reasonable opportunity to comment with regard to such undertaking.

fessional dialogue about creative approaches to preservation treatment.

It is easy for those of us working daily with Section 106 to get tangled in the mechanics of compliance while losing sight of its purpose. The mandate of Section 106, to take into account the effect of federal undertakings on properties listed in or eligible for listing in the National Register of Historic Places, requires all federal agencies to weigh and balance historic properties protection against other public interests. For federal land-managing agencies, the public, in effect, owns the cultural resources. These agencies and others also may provide federal assistance for projects that impact historic resources. The end result of the Section 106 process should therefore benefit those who foot the bill: the general public. Unfortunately, this is not always the case. This is not to say that today's standard forms of mitigation, such as architectural documentation and archeological data recovery, are inappropriate or ineffectual. Professionals do, however, need to consider whether the most common and accepted forms of mitigation and management truly benefit the public and whether there is a reasonable relationship between the damage or loss of the historic property and the proposed treatment measures. Will the results of consultation effectively preserve that which is historically important, or adequately compensate the public for the loss of its cultural heritage?

If a building listed in the National Register of Historic Places based on Criterion A for its association with an important event in local history is threatened by a federal undertaking, the responsible agency often may prepare architectural drawings and photographs to mitigate the loss of this historic property. It is, however, not the architecture of the building that makes it significant. A more effective form of documentation might entail performing contextual research regarding the role of the building in the events for which it is significant, conducting oral history interviews, or preparing informational exhibits for display in the community. Too often these less conventional options are overlooked in favor of traditional documentation approaches.

When documentation is prepared or archeological data recovery carried out, the benefits to the general public may be indirect and minimal, particularly if the materials are not translated and distributed to the public. With archeological properties in particular, there is a tendency to limit mitigation options to two choices. Federal agencies may first attempt to avoid archeological sites by relocating ground disturbing activities to

another area. If such avoidance is not possible, sites are excavated to recover the information they contain. The decision usually boils down to which alternative is least costly to the federal government or the project proponent. When data recovery is the choice, too often Indian tribes with historic ties to the area, or to specific sites being investigated, are not provided a meaningful role in decisionmaking, and the resulting reports are never published or summarized for distribution to interested tribes or the public.

Those professionals who implement and regulate the NHPA compliance process are integral players in the Section 106 process; but not the primary constituent. In order to improve public involvement, professionals must engage interested persons in a meaningful dialogue, and in order to be effective, public input must occur before treatment decisions are made. Of course, the level of public input sought by a federal agency should be commensurate with the scope of the project and the significance of the affected resources. In many cases, the public can be represented effectively by local archeological and historic societies or museums. It is important to note that it is communities, license applicants, Indian tribes, and others that ultimately must live with the results of consultation.

Many of the complicated Section 106 cases reviewed by the Advisory Council involve disputes between the federal agency and concerned Indian tribes or Native Hawaiian organizations. These groups do not wish to see places of traditional cultural importance or sacred sites destroyed by development projects primarily intended to benefit non-Indian communities. With the publication of National Register Bulletin 38: *Guidelines for Evaluating and Documenting Traditional Cultural Properties*, federal agencies and their consultants have access to useful guidance on how to apply the National Register criteria to traditional cultural properties. Many agencies, however, remain fearful of the implications of finding a National Register-eligible traditional cultural property in a project area. The case studies in this volume illustrate that no standard, streamlined approach to addressing Native American concerns exists in the Section 106 process. Rather, opening the door to problem-solving and working together with tribes and other interested parties for mutually acceptable solutions is the key to successful resolution.

These articles represent the views of the individual authors regarding compliance and management, and are not necessarily those of the Council.

To provide a Council perspective, Tom McCulloch and Alan Stanfill, who represented the Council as the discussants at the workshop in Austin and the symposium in Seattle, offer a discussion of the case studies at the end of this volume. The projects and programs included in this issue are excellent examples of how federal agencies, State Historic Preservation Officers, Indian tribes, historians, and archeologists can work together with other interested persons to achieve effective historic preservation outcomes. Other good examples exist, but we hope those presented here will inspire readers to think creatively when faced with similar challenges to the preservation and long-term management of archeological and historic resources.

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The Advisory Council on Historic Preservation is an independent federal agency that advises the President and Congress on historic preservation and reviews federal undertakings that may affect historic properties in the United States. Visit the Council's web site <<http://www.achp.gov>>.

Fred Chapman

The Bighorn Medicine Wheel 1988-1999

In the fall of 1988, the Bighorn National Forest introduced plans for access road and facility improvements at the Medicine Wheel National Historic Landmark (NHL) in order to accommodate increasing tourism. During a field consultation with Forest Service personnel, Northern Arapaho traditional elders expressed concerns that the proposed construction would disturb or possibly destroy the spiritual life that surrounds the Medicine Wheel. The elders later recounted how a federal official advised them that the Forest Service could “bulldoze the Medicine Wheel” as long as the agency followed certain undisclosed regulatory procedures.¹ This notorious incident marked the beginning of years of intricate negotiations and chronic acrimony between federal, state, and local government agencies, the general public, and Native American traditional elders representing 16 Indian tribes. What began as a straightforward federal undertaking turned into Wyoming's most complex and protracted Section 106 case. Viewed retrospectively, the Medicine Wheel was a watershed historic preservation event in the Northwestern Plains that decisively changed the practice of public archeology in Wyoming by demonstrating the benefits and necessity of Native American consultation.

Prehistoric and Ethnohistoric Context

The Bighorn Medicine Wheel NHL is located at an elevation of 9,642 feet near the crest

of the Bighorn Mountains of north central Wyoming. It occupies a high, alpine plateau about 30 miles east of Lovell, Wyoming. The Bighorn Medicine Wheel is the type site for medicine wheels in North America. Between 70 and 150 medicine wheels have been identified in South Dakota, Wyoming, Montana, Alberta, and Saskatchewan. Most are found in southern Alberta and Saskatchewan. The oldest medicine wheel is the 5,500-year-old Majorville Cairn in southern Alberta.

The most conspicuous feature of the Landmark is a circular alignment of limestone boulders that measures about 80 feet in diameter and contains 28 rock “spokes” that radiate from a prominent central cairn. Five smaller stone enclosures are connected to the outer circumference of the Wheel. A sixth and westernmost enclosure is located exterior to the Medicine Wheel but is clearly linked to the central cairn by one of the “spokes.” The enclosures are round, oval, or horse-shoe-shaped and closely resemble Northern and Northwestern Plains vision quest structures described by several researchers over the past 30 years. The surrounding 23,000-acre study area contains approximately 44 historic and prehistoric sites that include tipi rings, lithic scatters, buried archeological sites, and a system of relict prehistoric Indian trails all superimposed by a century of non-native use by loggers, ranchers, miners, and recreationalists.